AF 2611

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# TRANSMITTAL FORM

*(to be used for all correspondence after initial filing)*

Total Number of Pages in This Submission: 29

| | |
|---|---|
| Application Number | 09/818,303 |
| Filing Date | 03/27/2001 |
| First Named Inventor | Nevenka Dimitrova |
| Art Unit | 2611 |
| Examiner Name | Jason P. Salce |
| Attorney Docket Number | US010079 |

## ENCLOSURES *(Check all that apply)*

- [x] Fee Transmittal Form
- [x] Fee Attached
- [ ] Amendment/Reply
- [x] After Final
- [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
- [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
- [ ] Landscape Table on CD
- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [x] Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- [ ] Proprietary Information
- [ ] Status Letter
- [ ] Other Enclosure(s) (please Identify below):

Remarks

This communication contains an Appeal Brief filed on Monday June 5, 2006; which is the first businees day after the due date of Saturaday June 3, 2006. Therefore, no extension is required.

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | | | |
|---|---|---|---|
| Firm Name | LEIMBACH ASSOCIATES | | |
| Signature | James D. Leimbach | | |
| Printed name | James D. Leimbach | | |
| Date | June 5, 2006 | Reg. No. | 34,374 |

## CERTIFICATE OF TRANSMISSION/MAILING

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| | | | |
|---|---|---|---|
| Signature | James D. Leimbach | | |
| Typed or printed name | James D. Leimbach | Date | June 5, 2006 |

PTO/SB/17 (12-04v2)
Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE


*Effective on 12/08/2004.*
*Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).*

# FEE TRANSMITTAL
## For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** ($) 500.00

| Complete if Known | |
|---|---|
| Application Number | 09/818,303 |
| Filing Date | 03/27/2001 |
| First Named Inventor | Nevenka Dimitrova |
| Examiner Name | Jason P. Salce |
| Art Unit | 2614 |
| Attorney Docket No. | US010079 |

**METHOD OF PAYMENT** (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 50-3745 Deposit Account Name: _____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☑ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☑ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☑ Credit any overpayments

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**FEE CALCULATION**

**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| Application Type | FILING FEES Fee ($) | FILING FEES Small Entity Fee ($) | SEARCH FEES Fee ($) | SEARCH FEES Small Entity Fee ($) | EXAMINATION FEES Fee ($) | EXAMINATION FEES Small Entity Fee ($) | Fees Paid ($) |
|---|---|---|---|---|---|---|---|
| Utility | 300 | 150 | 500 | 250 | 200 | 100 | |
| Design | 200 | 100 | 100 | 50 | 130 | 65 | |
| Plant | 200 | 100 | 300 | 150 | 160 | 80 | |
| Reissue | 300 | 150 | 500 | 250 | 600 | 300 | |
| Provisional | 200 | 100 | 0 | 0 | 0 | 0 | |

**2. EXCESS CLAIM FEES**

| Fee Description | Fee ($) | Small Entity Fee ($) |
|---|---|---|
| Each claim over 20 (including Reissues) | 50 | 25 |
| Each independent claim over 3 (including Reissues) | 200 | 100 |
| Multiple dependent claims | 360 | 180 |

| Total Claims | | Extra Claims | Fee ($) | | Fee Paid ($) |
|---|---|---|---|---|---|
| _____ | - 20 or HP = | _____ | x _____ | = | _____ |

HP = highest number of total claims paid for, if greater than 20.

| Indep. Claims | | Extra Claims | Fee ($) | | Fee Paid ($) |
|---|---|---|---|---|---|
| _____ | - 3 or HP = | _____ | x _____ | = | _____ |

HP = highest number of independent claims paid for, if greater than 3.

| Multiple Dependent Claims Fee ($) | Fee Paid ($) |
|---|---|
| _____ | _____ |

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

| Total Sheets | | Extra Sheets | | Number of each additional 50 or fraction thereof | Fee ($) | | Fee Paid ($) |
|---|---|---|---|---|---|---|---|
| _____ | - 100 = | _____ | / 50 = | _____ (round up to a whole number) | x _____ | = | _____ |

**4. OTHER FEE(S)**

| | Fees Paid ($) |
|---|---|
| Non-English Specification, $130 fee (no small entity discount) | |
| Other (e.g., late filing surcharge): Fee for filing of Appeal Brief | 500 |

**SUBMITTED BY**

| | | | |
|---|---|---|---|
| Signature | James D. Leimbach | Registration No. (Attorney/Agent) 34,374 | Telephone (585) 381-9983 |
| Name (Print/Type) | James D. Leimbach | | Date 06/05/2006 |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

| | |
|---|---|
| In re Application of | Group Art Unit: 2623 |
| Nevenka Dimitrova | Examiner: Jason P. Salce |
| AUTOMATIC RETRIVAL GENIE | |
| Serial No. 09/818,303 | I hereby certify that this correspondence is being deposited today with the United States Postal Services as first class mail in an envelope addressed to: Mail Stop Appeal Brief-Patent Commissioner for Patents P.O. Box 1450 Alexandria VA. 22313-1450 |
| Filed: March 27, 2001 | |
| Confirmation No. 9218 | James D. Leimbach<br>Name: James D. Leimbach<br>Registration No. 34,374<br>Date: June 5, 2006 |

Mail Stop Appeal Brief-Patent
Honorable Commissioner of Patents and Trademarks
Alexandria VA. 22313-1450

Sir:

**APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

**Real party in interest**

The real party of interest is the Assignee who is U. S. Philips Corporation, a corporation existing under the laws of the State of Delaware (hereinafter Appellant).

**Related appeals and interferences**

There are no related appeals or interferences to the present application that are known to appellants, the appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**Status of the Claims**

Claims 1-59 define subject matter for video query processing, ascertaining if the query needs to be recast, prompting for user input if the query needs to be recast and determining an answer to the query. Claims 1-59 are rejected and are the appealed claims. A copy of appealed claims 1-59 is contained in Appendix III following this brief.

**Status of the Amendments After Final**

A response was filed subsequent to the final rejection to overcome the Examiner's rejection of claims 1-59 under the provisions of 35 U.S.C. §102(b) and under the provisions of 35 U.S.C. §103(a). The Examiner in an Advisory Action dated April 7, 2006 indicated that the rejections of claims 1-59 under U.S.C. §112, second paragraph, 35 U.S.C. §102(e) and 35 U.S.C. §103(a) stand.

**Summary of the Claimed Subject Matter**

The appealed claims define subject matter for video query processing, ascertaining if the query needs to be recast, prompting for user input if the query needs to be recast and determining an answer to the query.

Appealed claim 1 defines subject matter for a video query processing method, including providing video query processing software with video query processing system 50 as illustrated in Figure 2, and described in the specification on page 8, line 20-page 9, line 5 as query processing 60 that is part of the computer code 32 receives a query input 61. The query processing software is described as software that includes query processing and other software such as feature processing in the specification on page 8, line 22-page 9, line 3. The query processing can be used for processing video content as described in the specification on page 19, line 13-page 20, line 2.

Appealed claim 1 further defines providing video content as described in the specification on page 9, lines 5-7 as query processing 60 is dynamically linked to by the processor 12 to the video content and further described in the specification on page 19, line 13-page 20, line 2, as the query processing being used for processing video content.

Appealed claim 1 further defines dynamically linking the software to the video content as query processing 60 is dynamically linked to by the processor 12 to the video content as described in the specification on page 9, lines 5-7.

Appealed claim 1 further defines receiving by the software of a query keyed to a segment of the video content as described in the specification on page 9, lines 5-7.

Appealed claim 1 further defines ascertaining if the query needs to be recast and prompting for user input if the query needs to be recast (as described in the specification on page 11, lines 4-16 wherein feedback interaction 62 from user 40 has query processing 60 prompt the user 40 so that the query can be recast).

Appealed claim 1 further defines determining by the software an answer to the query as described in the specification on page 9, line 14-page 11, line 3.

Appealed claim 28 defines subject matter for a video query processing system 50 as illustrated in Figure 2, and described in the specification on page 8, line 20-page 9, line 5, that includes video query processing software (the query processing software is described as software that includes query processing and other software such as feature processing, as described in the specification on page 8, line 22-page 9, line 3, the query processing can be used for processing video content) that is dynamically linked to video content as described in the specification on page 9, lines 5-7, configured to receive a query keyed to a segment of the video content as

described in the specification on page 9, lines 5-7 and configured with means for ascertaining if the query needs to be recast prompting for user input if the query needs to be recast and to determine an answer to the query (as described in the specification on page 11, lines 4-16 wherein feedback interaction 62 from user 40 has query processing 60 prompt the user 40 so that the query can be recast).

Appealed claim 55 defines subject matter for a video processing architecture as shown in Figure 1 and described in the specification on page 2, lines 11-12, including a video processing system 10 as illustrated in Figure 1, and described in the specification on page 2, lines 11-13. Appealed claim 55 further defines the video processing system 10 as including: a processor 12; a memory structure 14 coupled to the processor 12 as described in the specification on page 2, lines 13-14. Appealed claim 55 defines the memory structure 14 as including computer code 32. The computer code 32 includes query software that implements dynamic query processing as described in the specification on page 3, lines 12-14 is further described in conjunction with Figure 2. The query software is configured to be dynamically linked to video content as described in the specification on page 9, lines 5-7; and configured to receive a query keyed to a segment of the video content as described in the specification on page 9, lines 5-7; and further configured with means for ascertaining if the query needs to be recast and prompting for user input if the query needs to be recast(as described in the specification on page 11, lines 4-16 wherein feedback interaction 62 from user 40 has query processing 60 prompt the user 40 so that the query can be recast); and further configured to determine an answer to the query page 9, line 14-page 11, line 3. Appealed claim 55 further defines subject matter for a local database 22 coupled to the processor 12; a video input device 18 coupled to the processor 12 and to the local database 22; a user input device 19 coupled to the processor 12; and an output device 20 coupled to the processor 12 as illustrated in Figure 1 and described in the specification on page 2, line 11-page 4, line 11.

Appealed claim 59 defines subject matter for a computer program product as illustrated in Figures 1 and 2 including a computer usable medium having a computer readable computer code 32 embedded therein, wherein the computer code 32 includes video query processing software (the query processing software is described as software that includes query processing and other software such as feature processing in the specification on page 8, line 22-page 9, line 3 and the query processing can be used for processing video content as described in

the specification on page 19, line 13-page 20, line 2) dynamically linked to video content (as described in the specification on page 9, lines 5-7 as query processing 60 is dynamically linked to by the processor 12 to the video content and further described in the specification on page 19, line 13-page 20, line 2, as the query processing being used for processing video content) and configured to receive a query keyed to a segment of the video content (as described in the specification on page 9, lines 5-7) and configured with means for ascertaining if the query needs to be recast and for prompting for user input if the query needs to be recast and to determine an answer to the query (as described in the specification on page 11, lines 4-16 wherein feedback interaction 62 from user 40 has query processing 60 prompt the user 40 so that the query can be recast).

**Grounds of Rejection to be Reviewed on Appeal**

The Advisory Action dated April 7, 2006 indicated that the rejections to claim 1-59 stand. Claims 1-59 are the appealed claims. Claims 1-2, 4-11, 13-25, 27-29, 31-38, 40-52 and 54-59 are rejected under the provisions of 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,553,221 issued to Reimer et al. (hereinafter referred to as *Reimer et al.*). Claims 3, 12, 30 and 39 are rejected under the provisions of 35 U.S.C. §103(a) as being unpatentable over *Reimer et al.* in view of U.S. Patent No. 6,766,320 issued in the name of Wang et al. (hereinafter referred to as *Wang et al.*). Claims 26 and 53 are rejected under the provisions of 35 U.S.C. §103(a) as being unaptentable over *Reimer et al.* in view of U.S. Patent No. 6,061,056 issued in the name of Menard (hereinafter referred to as *Menard*).

**Argument**

**I. The rejection of appealed claims 1-2, 4-11, 13-25, 27-29, 31-38, 40-52 and 54-59 under the provisions of 35 U.S.C. §102(b) as being anticipated by *Reimer et al.***

**A. The rejection under 35 U.S.C. §102(b)**

Appealed claims 1-2, 4-11, 13-25, 27-29, 31-38, 40-52 and 54-59 are rejected under the provisions of 35 U.S.C. §102(b) as being anticipated by *Reimer et al.* (U.S. Patent No. 5,553,221).

The MPEP at §2131 states that a "claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The MPEP at §2131 further states that the "identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

The MPEP at §2111.01 states that while "the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re American Academy of Science Tech Center*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004)."

The MPEP at §2111.01 further states that "words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)."

The MPEP at §2111.01 further quotes that court in stating that the "ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, *i.e.*, as of the effective filing date of the patent application." *Phillips v. AWH Corp.*, 376 F.3d 1382, 75 USPQ2d 1321 (Fed. Cir. 2005) (*en banc*)."

**B. The reference**

*Reimer et al.* relates to the creation of personalized movie presentations and collections (see Title). *Reimer et al.* teach a system and method for providing on demand access to information related to a movie, wherein the movie is presented to the user and receives a query from the user pertaining to the movie. *Reimer et al.* teach to retrieve the frames of the movie

identified by the query and presents portion of the movie related information to the user (see col. 3, lines 33-47).

As illustrated in Figure 1, *Reimer et al.* teach a foundation information interface component 108 that control access to a foundation information database 112, the term "foundation information" is defined information that has been produced by one or more parties (see col. 6, lines 57-65). In a movie embodiment the "foundation information" can be a movie and supplemental information such as pre-production and post-production information (see col. 6, line 67-col. 7, line 7). An interface component 118 is used control access to index information database 122. Index information represents indices of the foundation information (see col. 7, lines 20-30). *Reimer et al.* teach that a presentation and control component 104 receives information from the user device 106 and processes these requests by accessing information in the index information database 122. *Reimer et al.* disclose a bus 206 connected to a memory 208 that store control logic 210 and data 212. The control logic 210 enables a processor 204 to perform the functions described by *Reimer et al.* (see col. 8, lines 54-59).

*Reimer et al.* teach that a user can send a query while viewing a movie and that preferably a pause is initiated to send a query (see col. 16, lines 24-34). *Reimer et al.* discuss that a query can be ambiguous and *Reimer et al.* provide a detailed menu structure to deal with this potential ambiguity (see col. 16, lines 56-61). Alternate embodiments of *Reimer et al.* teach to make assumptions as to what the exact questions are (see col. 16, line 62-page 17, line 10). Figure 9B of *Reimer et al.* illustrates a flowchart for the query processing that is taught therein. It should be noted that there is neither any determination if a query should be recast nor prompting the user to recast a query taught or suggested by *Reimer et al.* *Reimer et al.* teach to identify the query type and process the query according to type (see Figure 9B steps 908 and 910; col. 17, lines 12-67).

**C. <u>The differences between the reference and the invention</u>**

Appealed claims 1-2, 4-11, 13-25, 27-29, 31-38, 40-52 and 54-59 define subject matter for ascertaining if the query needs to be recast and prompting for user input if the query needs to be recast. The appellant respectfully point out that subject matter for ascertaining if the query needs to be recast and prompting for user input if the query needs to be recast as defined by appealed claims 1-2, 4-11, 13-25, 27-29, 31-38, 40-52 and 54-59 is a single element.

Appealed claims 1-2, 4-11, 13-25, 27-29, 31-38, 40-52 and 54-59 do not define subject for prompting for user input if the query does not need to be recast. *Reimer et al.* teach to provide a menu to select a question or an alternative embodiment wherein assumptions are made as to what the question is (see col. 16, line 43-col. 17, line 9). There is no disclosure or suggestion for determining if a query needs to be recast within *Reimer et al.* Furthermore, there is no disclosure or suggestion for prompting for user input if the query needs to be recast within *Reimer et al.* Therefore, all the elements defined by the appealed claims are not found within *Reimer et al.*

Additionally, the rejection does not provide any rationale in which *Reimer et al.* could be seen as anticipating the elements arranged as defined by the appealed claims. Specifically, *Reimer et al.* provides no disclosure or suggestion for ascertaining if the query needs to be recast and prompting for user input if the query needs to be recast.

The appellants respectfully point out that the term "prompting" as employed by the appealed claims is used with the term "if the query needs to be recast. There is no disclosure or suggestion of recasting queries within *Reimer et al.* Accordingly, there is no disclosure or suggestion within *Reimer et al.* prompting for user input if the query needs to be recast.

## II. The rejection of appealed claims 3, 12, 30 and 39 under the provisions of 35 U.S.C. §103(a) as being unpatentable over *Reimer et al.* in view *Wang et al.*

### A. The rejection under 35 U.S.C. S 103(a)

Appealed claims 3, 12, 30 and 39 are rejected under the provisions of 35 U.S.C. §103(a) as being unpatentable over *Reimer et al.* in view of *Wang et al.* (U.S. Patent No. 6,766,320).

The MPEP at §2143 states that to "establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination

and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure." *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The MPEP at §2143.01 states that the "mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

The MPEP at §2143.01 further states that although "a prior art device 'may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so.'" *In re Mills*, 916 F.2d at 682, 16 USPQ2d at 1432.).

The MPEP at §2143.01 additionally states that a "statement that modifications of the prior art to meet the claimed invention would have been ''well within the ordinary skill of the art at the time the claimed invention was made' because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references." *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993).

The MPEP at §2143.01 still further states that states that if the "proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984) (

The MPEP at §2143.01 still further states that states that if the "proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

**B. The references**

*Reimer et al.* (U.S. Patent No. 5,553,221) as previously discussed relates to personalized movie presentations and collections. *Reimer et al.* teach providing on demand access to information related to a movie, wherein the movie is presented to the user and receives a query from the user pertaining to the movie. *Reimer et al.* teach to retrieve the frames of the

movie identified by the query and presents portion of the movie related information to the user (see col. 3, lines 33-47).

As illustrated in Figure 1, *Reimer et al.* teach a foundation information interface component 108 that control access to a foundation information database 112, the term "foundation information" is defined information that has been produced by one or more parties (see col. 6, lines 57-65). In a movie embodiment the "foundation information" can be a movie and supplemental information such as pre-production and post-production information (see col. 6, line 67-col. 7, line 7). An interface component 118 is used control access to index information database 122. Index information represents indices of the foundation information (see col. 7, lines 20-30). *Reimer et al.* teach that a presentation and control component 104 receives information from the user device 106 and processes these requests by accessing information in the index information database 122. *Reimer et al.* disclose a bus 206 connected to a memory 208 that store control logic 210 and data 212. The control logic 210 enables a processor 204 to perform the functions described by *Reimer et al.* (see col. 8, lines 54-59).

*Reimer et al.* teach that a user can send a query while viewing a movie and that preferably a pause is initiated to send a query (see col. 16, lines 24-34). *Reimer et al.* discuss that a query can be ambiguous and *Reimer et al.* provide a detailed menu structure to deal with this potential ambiguity (see col. 16, lines 56-61). Alternate embodiments of *Reimer et al.* teach to make assumptions as to what the exact questions are (see col. 16, line 62-page 17, line 10). Figure 9B of *Reimer et al.* illustrate a flowchart for the query processing that is taught therein. It should be noted that there is neither any determination if a query has to be recast nor prompting the user to recast a query taught or suggested by *Reimer et al.* *Reimer et al.* teach to identify the query type and process the query according to type (see Figure 9B steps 908 and 910; col. 17, lines 12-67).

*Wang et al.* (U.S. Patent No. 6,766,320) relate to search engines with natural language parsing for user query and feedback learning (see Title and Abstract). *Wang et al.* is a Microsoft® patent that is related to search engine technology. The search engine of *Wang et al.* is designed to handle a full range of user queries and includes a natural language parser that parses a user query and extracts syntactic and semantic information (see col. 2, lines 59-63). *Wang et al.* teach a network system 100 that includes a client computer 102 that submits user queries to a server via a network, such as the internet (see col. 4, lines 43-51).

It should be noted that there is no disclosure or suggestion within *Wang et al.* for any determination if a query should be recast or any prompting of the user to recast a query.

**C. The differences between the invention and the reference**

The appellant respectfully asserts that a *prima facie* case of obviousness is not established by the rejection. The rejection does not provide any suggestion or motivation to modify the cited references or to combine the teachings of the cited references. Furthermore, there is no reasonable expectation of success provided by the rejection that would lead a person skilled in the art to believe that using the internet as a database with the teaching of *Reimer et al.* would be possible. The rejection does not disclose or suggest a determination that a query should be recast or any prompting of the user to recast a query. There is neither any disclosure nor suggestion to within the cited references to make the claimed combination. Furthermore, there is no reasonable expectation of success found within the cited references for the combination made.

The rejection simply attempts to combine *Reimer et al.* with *Wang et al.* without providing any rationale for making the combination. The references do not provide any disclosure for the combination made or suggests the desirability of the combination.

Assuming that the combination made by the rejection were workable, there must be a suggestion or motivation in the references to make the combination. The rejection fails to provide any disclosure or suggestion to make the combination made in the rejection.

The rejection simply makes statements that modifications of the prior art references would have been well within the ordinary skill of the art at the time the claimed invention was made because of the allegation that the references teach that all aspects of the appealed claims. This allegation is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references.

The modification proposed by the rejection renders the prior art references modified unsatisfactory for their intended purposes. *Reimer et al.* is intended to respond to queries associated with movies that are indexed and not to the more open ended queries that are the result of an input to a search engine. The search engine of *Wang et al.* would not provide the functionality needed for the indexed video queries of *Reimer et al.* Additionally, the video queries of *Reimer et al.* would not operate on a computer based search engine such as that taught

by *Wang et al.* The video queries of *Reimer et al.* and would not operate with the normal language parsing taught by *Wang et al.* Therefore, there is no suggestion or motivation to make the proposed modification.

The combination made by the rejection would change the principle of operation of the cited references, *Reimer et al.* and *Wang et al.* *Reimer et al.* is intended to respond to queries associated with indexed movies and not to queries that are the result of an input to a computer based search engine that searches everything on the internet. The search engine of *Wang et al.* would not provide the functionality needed for the indexed video queries of *Reimer et al.* Additionally, the indexed video queries of *Reimer et al.* would not operate on a computer based search engine such as that taught by *Wang et al.* that expects queries to be phrase in the form of normal language parsing. Therefore, the teachings of *Reimer et al.* and *Wang et al.* are not sufficient to render the appealed claims *prima facie* obvious.

**Appealed claim 3**

Appealed claim 3 defines the subject matter for appealed claim 2, wherein the video processing system is operating in a stand-alone mode. There is no disclosure or suggestion within *Reimer et al.* or *Wang et al.*, either alone or in combination for the subject matter for appealed claim 2, wherein the video processing system is operating in a stand-alone mode.

**Appealed claim 12**

Appealed claim 12 defines the subject matter for appealed claim 11, wherein the database is coupled to an Internet web site. There is no disclosure or suggestion within *Reimer et al.* or *Wang et al.*, either alone or in combination for the subject matter for appealed claim 11, wherein the database is coupled to an Internet web site.

**Appealed claim 30**

Appealed claim 30 defines the subject matter for appealed claim 29, wherein the video processing system is operating in a stand-alone mode. There is no disclosure or suggestion within *Reimer et al.* or *Wang et al.*, either alone or in combination for the subject matter for appealed claim 29, wherein the video processing system is operating in a stand-alone mode.

**Appealed claim 39**

Appealed claim 39 defines the subject matter for appealed claim 38, wherein the database is coupled to an Internet web site. There is no disclosure or suggestion within *Reimer et al.* or *Wang et al.*, either alone or in combination for the subject matter for appealed claim 38, wherein the video processing system is operating in a stand-alone mode.

## III. The rejection of appealed claims 26 and 53 under the provisions of 35 U.S.C. §103(a) as being obvious over *Reimer et al.* in view of *Menard*

### A. The rejection under 35 U.S.C. S 103(a)

Appealed claims 26 and 53 are rejected under the provisions of 35 U.S.C. §103(a) as being unaptentable over *Reimer et al.* in view of *Menard* (U.S. Patent No. 6,061,056).

The MPEP at §2143 states that to "establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure." *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The MPEP at §2143.01 states that the "mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

The MPEP at §2143.01 further states that although "a prior art device 'may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so.'" *In re Mills*, 916 F.2d at 682, 16 USPQ2d at 1432.).

The MPEP at §2143.01 additionally states that a "statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art at the time the claimed invention was made' because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references." *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993).

The MPEP at §2143.01 still further states that states that if the "proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984) (

The MPEP at §2143.01 still further states that states that if the "proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

**B. The references**

*Reimer et al.* (U.S. Patent No. 5,553,221) as previously discussed relates to personalized movie presentations and collections. *Reimer et al.* teach providing on demand access to information related to a movie, wherein the movie is presented to the user and receives a query from the user pertaining to the movie. *Reimer et al.* teach to retrieve the frames of the movie identified by the query and presents portion of the movie related information to the user (see col. 3, lines 33-47).

As illustrated in Figure 1, *Reimer et al.* teach a foundation information interface component 108 that control access to a foundation information database 112, the term "foundation information" is defined information that has been produced by one or more parties (see col. 6, lines 57-65). In a movie embodiment the "foundation information" can be a movie and supplemental information such as pre-production and post-production information (see col. 6, line 67-col. 7, line 7). An interface component 118 is used control access to index information database 122. Index information represents indices of the foundation information (see col. 7, lines 20-30). *Reimer et al.* teach that a presentation and control component 104 receives

information from the user device 106 and processes these requests by accessing information in the index information database 122. *Reimer et al.* disclose a bus 206 connected to a memory 208 that store control logic 210 and data 212. The control logic 210 enables a processor 204 to perform the functions described by *Reimer et al.* (see col. 8, lines 54-59).

*Reimer et al.* teach that a user can send a query while viewing a movie and that preferably a pause is initiated to send a query (see col. 16, lines 24-34). *Reimer et al.* discuss that a query can be ambiguous and *Reimer et al.* provide a detailed menu structure to deal with this potential ambiguity (see col. 16, lines 56-61). Alternate embodiments of *Reimer et al.* teach to make assumptions as to what the exact questions are (see col. 16, line 62-page 17, line 10). Figure 9B of *Reimer et al.* illustrate a flowchart for the query processing that is taught therein. It should be noted that there is neither any determination if a query has to be recast nor prompting the user to recast a query taught or suggested by *Reimer et al.* *Reimer et al.* teach to identify the query type and process the query according to type (see Figure 9B steps 908 and 910; col. 17, lines 12-67).

*Menard et al.* (U.S. Patent No. 6,061,056) relate television monitoring systems with automatic selection of program material (see Title). Program data is compared with stored data and outputs upon a match (see Abstract). *Menard et al.* teach monitoring of broadcast signals for programs that are broadcast for program that have been designated by the user as being of interest. Upon finding a match with material that is of interest to the user, *Menard et al.* allows the user to view that program or a recorded portion of that program (see col. 1, line 65-col. 2, line 18).

*Menard et al.* teach a monitoring system that includes a video capture unit 9 (see col. 4, lines 63-65). *Menard et al.* teach that an SQL query can be used to retrieve portions of movies and programs (see col. 6, lines 28-56). It should be noted that there is no disclosure or suggestion within *Menard et al.* for any determination if a query should be recast or any prompting of the user to recast a query.

**C. The differences between the invention and the references**

The appellant respectfully asserts that a *prima facie* case of obviousness is not established by the rejection. The rejection does not provide any suggestion or motivation to

modify the cited references or to combine the teachings of the cited references. Furthermore, there is no reasonable expectation of success provided by the rejection that would lead a person skilled in the art to believe that extracting features taking into account preferences of a user of the query processing with the teaching of *Reimer et al.* would be possible. The rejection does not disclose or suggest a determination that a query should be recast or any prompting of the user to recast a query. There is neither any disclosure nor suggestion to within the cited references to make the claimed combination. Furthermore, there is no reasonable expectation of success found within the cited references for the combination made.

The rejection simply attempts to combine *Reimer et al.* with *Menard et al.* without providing any rationale for making the combination. The references do not provide any disclosure for the combination made or suggests the desirability of the combination.

Assuming that the combination made by the rejection were workable, there must be a suggestion or motivation in the references to make the combination. The rejection fails to provide any disclosure or suggestion to make the combination made in the rejection.

The rejection simply makes statements that modifications of the prior art references would have been well within the ordinary skill of the art at the time the claimed invention was made because of the allegation that the references teach that all aspects of the appealed claims. This allegation is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references.

The modification proposed by the rejection renders the prior art references modified unsatisfactory for their intended purposes. *Reimer et al.* is intended to respond to queries associated with movies that are indexed and is not intended to be used with a monitoring system to provide automatic selection of program material. The automatic selection of program material taught by *Menard et al.* would not provide the functionality needed for the indexed video queries of *Reimer et al.* Additionally, the video queries of *Reimer et al.* would not operate on the automatic selection of program materials taught by *Menard et al.* Conversely, the video queries of *Reimer et al.* would not operate with the automatic selection of program material taught by *Menard et al.* Therefore, there is no suggestion or motivation to make the proposed modification.

The combination made by the rejection would change the principle of operation of the cited references, *Reimer et al.* and *Menard et al.* *Reimer et al.* is intended to respond to

queries associated with indexed movies and not to queries that are made for the purpose of automatic selection of program material that is being broadcast as taught by *Menard et al.* The automatic selection of program material taught by *Menard et al.* would not provide the functionality needed for the indexed video queries of *Reimer et al.* Additionally, the indexed video queries of *Reimer et al.* would not operate on automatic selection of program material taught by *Menard et al.* that monitors program material to find a match. Therefore, the teachings of *Reimer et al.* and *Menard et al.* are not sufficient to render the appealed claims *prima facie* obvious.

**Appealed claim 26**

Appealed claim 26 defines subject matter for the method of claim 24, wherein extracting features includes taking into account preferences of a user of the query processing method. There is no disclosure or suggestion within *Reimer et al.* or *Menard et al.*, either alone or in combination for the subject matter for appealed claim 24, wherein extracting features includes taking into account preferences of a user of the query processing method.

**Appealed claim 53**

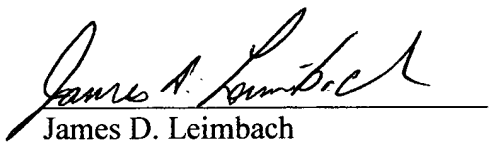
Appealed claim 53 defines subject matter for the system of claim 51, wherein to extract features includes to take into account preferences of a user of the query processing system. There is no disclosure or suggestion within *Reimer et al.* or *Menard et al.*, either alone or in combination for the subject matter for appealed claim 24, wherein to extract features includes to take into account preferences of a user of the query processing system.

**Conclusion**

In summary, the examiner's rejections of the claims are believed to be in error for the reasons explained above. The rejections of each of claims 1-59 should be reversed.

The Commissioner is authorized to charge fees associated with the filing of this brief to Account No. 50-3745, including any underpayments but excluding the payment of any issue fees, and to credit any overpayments to the same account.

Respectfully submitted,



James D. Leimbach
Attorney for Appellants
Registration No. 34,374

Telephone: 585-381-9983
Facsimile: 585-381-9983

**APPENDIX I. Evidence on Appeal**

"None"

**APPENDIX II. Related Proceedings**

"None"

**APPENDIX III. Claims on Appeal**

1. A video query processing method, comprising:

providing video query processing software;

providing video content;

dynamically linking the software to the video content;

receiving by the software a query keyed to a segment of the video content;

ascertaining if the query needs to be recast and prompting for user input if the query needs to be recast; and

determining by the software an answer to the query.

2. The method of claim 1, wherein the software is within a video processing system.

3. The method of claim 2, wherein the video processing system is operating in a stand-alone mode.

4. The method of claim 2, wherein the video processing system is operating in a service mode.

5. The method of claim 1, wherein providing video content includes providing video content in real time.

6. The method of claim 1, wherein providing video content includes providing recorded video content.

7. The method of claim 1, wherein the determining comprises receiving information by the software, wherein the information is derived from a database, and wherein the information answers the query.

8. The method of claim 7, wherein receiving information includes: receiving data from the database, wherein the data includes the information; and extracting the information from the data.

9. The method of claim 7, wherein receiving information includes: finding data in the database, wherein the data includes the information; and extracting the information from the data at the database; sending the information to the software.

10. The method of claim 7, further comprising identifying the database by a pointer located in a search site descriptions repository.

11. The method of claim 7, wherein the software is within a video processing system, and wherein the database is external to the video processing system.

12. The method of claim 11, wherein the database is coupled to an Internet web site.

13. The method of claim 11, wherein the database is coupled to a remote server.

14. The method of claim 1, wherein providing video content includes providing dynamic video content to a user of the video query processing method, and wherein receiving the query includes communicating the query to the software by the user.

15. The method of claim 14, further comprising communicating the answer to the user.

16. The method of claim 1, wherein the determining comprises: receiving by the software information derived from each database of a plurality of databases, wherein each database is external to the video processing system, and wherein the information derived from each database partially answers the query; and merging the information derived from each database to arrive at the answer.

17. The method of claim 16, wherein receiving information includes: receiving data from each database, wherein the data received from each database includes the information derived from each database; and extracting the information derived from each database from the data of each database.

18. The method of claim 16, wherein receiving information includes: finding data in each database, wherein the data in each database includes the information derived from each database; extracting the information derived from each database from the data in each database, wherein the extracting is executed at each database; and sending the information derived from each database to the software.

19. The method of claim 1, wherein the query received by the software is a canned query.

20. The method of claim 19, wherein the canned query is a function of a genre of the video content.

21. The method of claim 1, wherein the query received by the software is an unbounded query, and further comprising deriving at least one canned query from the unbounded query.

22. The method of claim 1, wherein the query received by the software is in indefinite form, and wherein ascertaining further comprises recasting the received query in definite form.

23. The method of claim 1, further comprising: receiving by the software a program-level question in relation to the video content; and ascertaining by the software an answer to the question.

24. The method of claim 23, further comprising extracting features from the video content, wherein the ascertaining includes utilizing the extracted features to answer to the question.

25. The method of claim 24, further comprising storing the extracted features in transient memory prior to utilizing the extracted features to answer the question.

26. The method of claim 24, wherein extracting features includes taking into account preferences of a user of the query processing method.

27. The method of claim 24, wherein extracting features from the video content includes

extracting features from at least one of a video program of the video content and an electronic program guide of the video content.

28. A video query processing system, comprising video query processing software dynamically linked to video content and configured to receive a query keyed to a segment of the video content and configured with means for ascertaining if the query needs to be recast prompting for user input if the query needs to be recast and to determine an answer to the query.

29. The system of claim 28, wherein the software is within a video processing system.

30. The system of claim 29, wherein the video processing system is operating in a stand-alone mode.

31. The system of claim 29, wherein the video processing system is operating in a service mode.

32. The system of claim 28, wherein the video content includes real-time video content.

33. The system of claim 28, wherein the video content includes recorded video content.

34. The system of claim 28, further comprising a database, wherein the software is configured to determine the answer by receiving information that is derived from the database, and wherein the information answers the query.

35. The system of claim 34, wherein the software is configured to receive data from the database, wherein the data includes the information, and wherein the software is configured to extract the information from the data.

36. The system of claim 34, wherein data in the database includes the information, wherein the information is extracted at the database from the data, and wherein the information so extracted is sent to the software.

37. The system of claim 34, further comprising a search site descriptions repository that is coupled to the software, wherein the search site descriptions repository includes a pointer that identifies the database.

38. The system of claim 34, wherein the software is within a video processing system, and wherein the database is external to the video processing system.

39. The system of claim 38, wherein the database is coupled to an Internet web site.

40. The system of claim 38, wherein the database is coupled to a remote server.

41. The system of claim 28, wherein the software is configured to receive the query from a user of the video query processing system.

42. The system of claim 41, wherein the software is configured to communicate the answer to the user.

43. The system of claim 28, further comprising a plurality of databases, wherein the software is configured to receive information derived from each database of the plurality of databases, wherein each database is external to the VPS, wherein the information derived from each database partially answers the query, and wherein the system is configured to merge the information derived from each database to arrive at the answer.

44. The system of claim 43, wherein the software is configured to receive data from each database, wherein the data received from each database includes the information derived from each database, and wherein the software is configured to extract the information derived from each database from the data of each database.

45. The system of claim 43, wherein the data in each database includes the information derived from each database, wherein the information is extracted at each database from the data in each database, and wherein the information so extracted is sent to the software.

46. The system of claim 28, wherein the query is a canned query.

47. The system of claim 46, wherein the canned query is a function of a genre of the video content.

48. The system of claim 28, wherein the query is an unbounded query, and wherein the software is configured to derive at least one canned query from the unbounded query.

49. The system of claim 28, wherein ascertain further comprises ascertaining if the query is in indefinite form, and wherein the software is configured to recast the query in definite form.

50. The system of claim 28, wherein the software is configured to receive a program-level question in relation to the video content and provide an answer to the question.

51. The system of claim 50, wherein the software is configured to extract features from the video content, wherein to ascertain an answer to the question includes to utilize the extracted features to answer the question.

52. The system of claim 51, wherein the software is configured to store the extracted features in transient memory.

53. The system of claim 51, wherein to extract features includes to take into account preferences of a user of the query processing system.

54. The system of claim 51, wherein to extract features from the video content includes to extract features from at least one of a video program of the video content and an electronic program guide of the video content.

55. A video processing architecture, comprising a video processing system, wherein the video processing system includes: a processor; a memory structure coupled to the processor, wherein

the memory structure includes a computer code, wherein the computer code includes video query software configured to be dynamically linked to video content and configured to receive a query keyed to a segment of the video content and further configured with means for ascertaining if the query needs to be recast and prompting for user input if the query needs to be recast and further configured to determine an answer to the query; a local database coupled to the processor; a video input device coupled to the processor and to the local database; a user input device coupled to the processor; and an output device coupled to the processor.

56. The video processing architecture of claim 55, further comprising an external database coupled to the software, wherein the video query software is configured to utilize the external database to determine the answer to the query.

57. The video processing architecture of claim 55, further comprising a video source, wherein the video processing architecture is configured to enable the video source to transmit the video content to the video processing system.

58. The video processing architecture of claim 55, wherein the software is configured to receive the query from a user of the software.

59. A computer program product comprising a computer usable medium having a computer readable computer code embedded therein, wherein the computer code comprises video query processing software dynamically linked to video content and configured to receive a query keyed to a segment of the video content and configured with means for ascertaining if the query needs to be recast and for prompting for user input if the query needs to be recast and to determine an answer to the query.